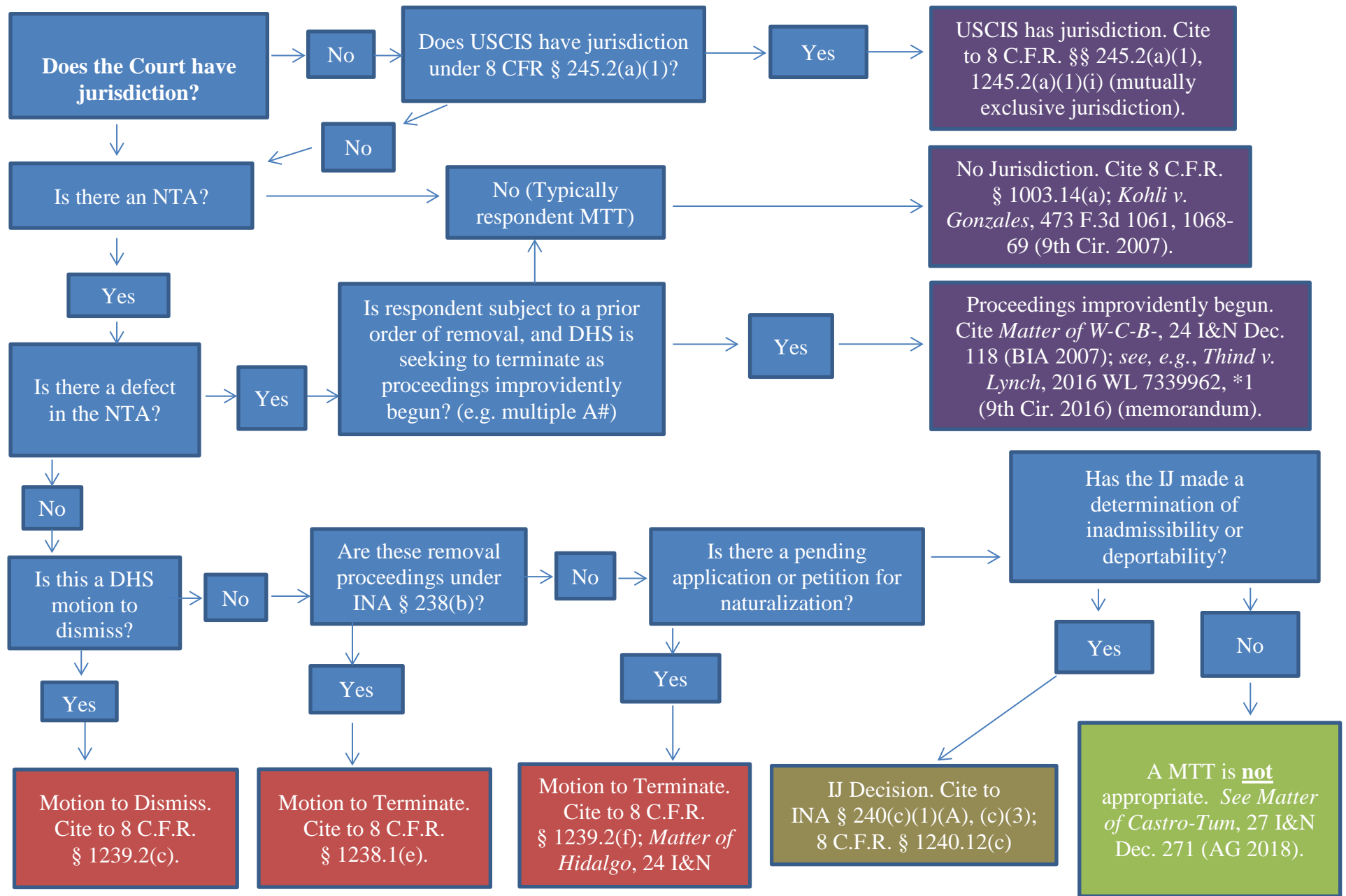
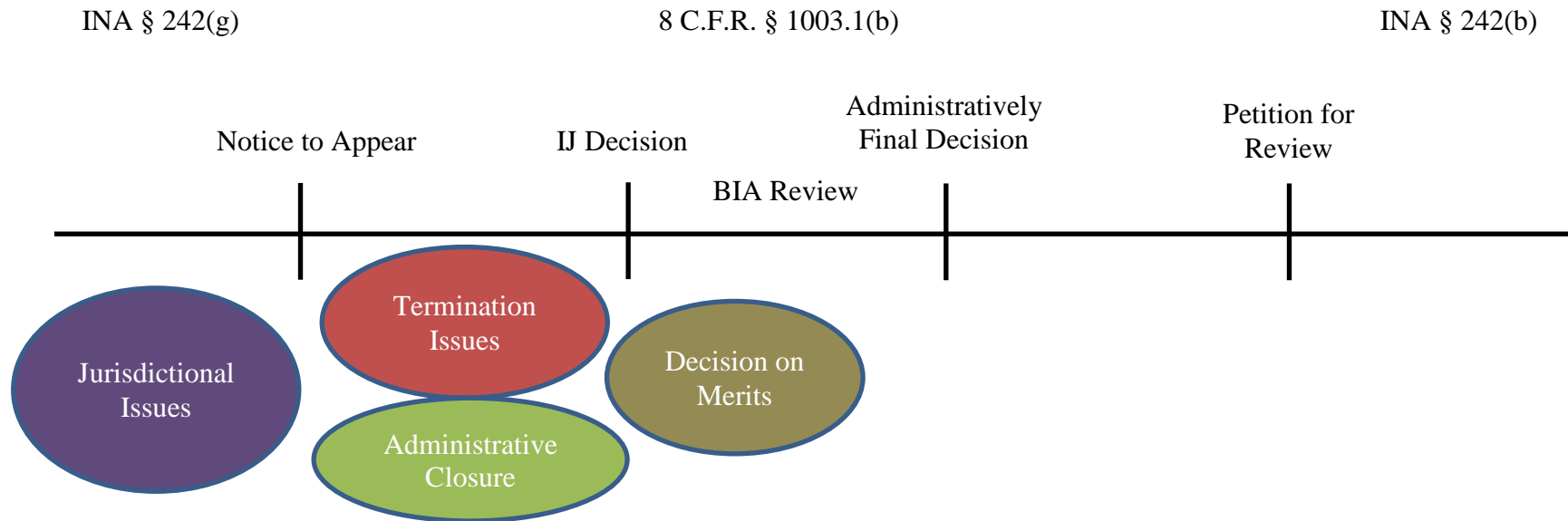


# What is the statutory/ regulatory basis of this Motion to Terminate?



# Motion to Terminate & Appellate Review Timeline



## Summary of the Immigration Judge's Termination Authority

The IJ "is without authority to terminate deportation proceedings so long as enforcement officials of the [DHS] choose to initiate proceedings against a deportable alien and prosecute those proceedings to a conclusion." *Lopez-Telles v. INS*, 564 F.2d 1302, 1304 (9th Cir. 1977); see *Matter of S-O-G- & F-D-B-*, 27 I&N Dec. 462, 468 (A.G. 2018). However, the IJ has authority to terminate proceedings where the court lacks jurisdiction. See *Kohli v. Gonzales*, 473 F.3d 1061, 1068-69 (9th Cir. 2007). An IJ also has authority to terminate proceedings under 8 C.F.R. § 1238.1(e), if the alien is subject to removal under INA § 238, or under 8 C.F.R. § 1239.2(f), if the alien has an application or pending petition for naturalization. See *Hanggi v. Holder*, 563 F.3d 378, 384 (8th Cir. 2009). Additionally, after a motion by DHS, an IJ may dismiss a notice to appear and end proceedings; the respondent may not file a motion to dismiss. 8 C.F.R. § 1239.2(c); see, e.g., *Sanchez Lobato v. Holder*, 445 F. App'x 990 (9th Cir. 2011)

(memorandum) ("the IJ did not err in denying [petitioner's] motion to terminate proceedings and reissuance of the notice to appear because the IJ lacked the authority to grant the motion.").

The Ninth Circuit lacks jurisdiction to "hear any cause or claim by or on behalf of any alien arising from the decision of or action by the [Secretary of Homeland Security] to commence proceedings, adjudicate cases, or execute removal orders against any alien under this chapter." INA § 242(g); see *Jimenez-Angeles v. Ashcroft*, 291 F.3d 594, 598-99 (9th Cir. 2002). In effect, this means that the Ninth Circuit is precluded from reviewing an IJ's decision on a motion to terminate unless one of the regulatory grounds to terminate applies or the respondent is not removable as charged. The BIA, as in *Matter of W-A-F-C-*, 26 I&N Dec. 880 (BIA 2016), has authority to review an IJ's decision to terminate. See 8 C.F.R. § 1003.1(b) (discussing BIA's appellate jurisdiction).